

April 26, 2011 06:00 PM Eastern Daylight Time

## **American Pharmacies Says Medicare Part D Laws Not Enforced**

### **Humana-Walmart prescription drug plan locks out other pharmacies**

AUSTIN, Texas--([BUSINESS WIRE](#))--American Pharmacies, a member-owned independent pharmacy cooperative based in Texas, is taking on Humana and Walmart via the Centers for Medicare and Medicaid Services (CMS) for discriminating against some pharmacies in Humana's new Medicare Part D prescription drug plan (PDP).

**“Against the will of Congress, the Humana-Walmart Preferred Rx Part D Plan favors Walmart-owned pharmacies and prevents all other pharmacies from being allowed to participate in the plan on equal terms”**

Humana, based in Louisville, Kentucky, is one of the nation's largest health insurers and has approximately 1.8 million Medicare Part D enrollees. Wal-Mart Stores, Inc., headquartered in Bentonville, Arkansas, is the world's largest retail chain. Together, as the insurance plan and the co-branded pharmacy, they are a formidable entity that CMS apparently is reluctant to make play by the rules, according to American Pharmacies General Counsel Amanda Gohlke Fields.

American Pharmacies is [challenging the legality of the CMS regulations](#) that led to the creation of the Humana-Walmart Preferred Rx Part D Plan, asking CMS to rectify it, in keeping with federal Medicare laws. “These ill-conceived federal regulations have fostered the creation of the Humana-Walmart plan,” Gohlke Fields said. “Eliminating these regulations will ensure that any willing pharmacy may participate in any Medicare Part D plan.

“Against the will of Congress, the Humana-Walmart Preferred Rx Part D Plan favors Walmart-owned pharmacies and prevents all other pharmacies from being allowed to participate in the plan on equal terms,” Gohlke Fields said. “All pharmacies must be allowed to participate in any prescription drug plan on equal financial terms.

“Those patients enrolled in the Humana-Walmart Preferred Rx Part D Plan must pay more for their medications simply because they want to consult a pharmacist with whom they have a long-standing, trusting relationship. Medicare laws call for a PDP to open its network of pharmacies to any pharmacy willing to accept the plan’s terms and conditions. The Humana-Walmart Preferred Rx Part D Plan is no exception.”

Fields also said American Pharmacy members are reporting misleading marketing issues, such as confusing formularies and inadequate disclosure of which pharmacies other than Walmart and Sam’s Clubs are preferred providers. “Non-Walmart pharmacies are being hindered from serving those long-time patients enrolled in this PDP because of the preferred treatment of Walmart-owned pharmacies,” she said.

This is not American Pharmacies’ first bold step against a giant competitor. It filed a still-pending RICO suit against CVS Caremark in September 2010. That suit also followed inadequate action by a federal agency. A Federal Trade Commission investigation into the conglomerate’s business practices has been dragging on for years, according to American Pharmacies and other community pharmacy organizations.

The CVS Caremark lawsuit, brought by six Texas pharmacies owned by members of the American Pharmacies board of directors, is a class action that could benefit all community pharmacies in the country. As a result, pharmacy associations and individual pharmacists nationwide are backing the CVS Caremark fight by sending financial support to the [American Pharmacies Legal Defense Fund](#).

[American Pharmacies](#) is a member-owned pharmacy cooperative operating in Texas, Arkansas, Louisiana, New Mexico, Oklahoma, Missouri, Mississippi, and Tennessee.

## Contacts

American Pharmacies

Pam Baggett-Wallis, 512-925-9492 or 512-292-3439